

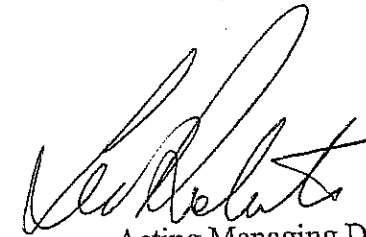
FISHERIES MANAGEMENT ACT 1991
HEARD ISLAND AND McDONALD ISLANDS FISHERY
MANAGEMENT PLAN 2002

DIRECTION No. HIMIFD 6

**CLOSURE OF WATERS ADJACENT TO HEARD ISLAND
AND MCDONALD ISLANDS**

I, Leslie John Roberts, Acting Managing Director of the Australian Fisheries Management Authority, as delegate make the following Direction under subsection 17(5A) of the *Fisheries Management Act 1991* and subsection 31(1) of the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

Dated ^{1st} April 2004



Acting Managing Director,
Australian Fisheries Management Authority

Citation

1. This Direction may be cited as Direction No. HIMIFD 6.

Commencement

2. This Direction commences on Gazettal.

Application

3. This Direction applies to a holder of statutory fishing rights in the fishery and to a person acting on behalf of the holder.

Period of Application

4. This Direction applies for a period of five years from the date of commencement.

Interpretation

5.1 In this Direction:

“fishery” means the Heard Island and McDonald Islands Fishery as defined in the Plan.

“Plan” means the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

5.2 A term used in this Direction by way of priority, or if there is any inconsistency:

- (a) takes the meaning given to it in the interpretation section of this Direction; then;
- (b) if no meaning is given to the word in the interpretation section of this Direction, takes the meaning given to it in the Plan; and then;
- (c) if no meaning is given to the word in this Direction nor in the Plan, takes the meaning given to that word under the *Fisheries Management Act 1991*.

5.3 The origin of geographical coordinates used in this Direction is the World Geodetic Datum System 1972 (WGS72).

Prohibition on fishing

6. No fishing is to be engaged in in that part of the fishery on the landward side of the line one mile to seaward of the outer edge of the territorial sea of the Territory of Heard Island and McDonald Islands.

Exemption to the Prohibition on fishing in clause 6

7. An exemption to the prohibition on fishing in clause 6 above applies to a person who fishes under a scientific permit in accordance with section 15 of the Plan.

Revocation of Direction No. HIMIFD 2

8. Direction No. HIMIFD 2 is revoked.

EXPLANATORY STATEMENT

Issued by the Authority of the Acting Managing Director
of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Heard Island and McDonald Islands Fishery Management Plan 2002

Direction No. HIMIFD 6

CLOSURE OF WATERS ADJACENT TO HEARD ISLAND AND McDONALD ISLANDS

The *Heard Island and McDonald Islands Fishery Management Plan 2002* (the Management Plan) is a plan of management for the Heard Island and McDonald Islands Fishery (the Fishery) determined under section 17 of the *Fisheries Management Act 1991* (the Act) on 8 May 2002.

Subsection 17(5A) of the Act authorises the inclusion in a plan of management of provision for the giving of directions by the Australian Fisheries Management Authority (AFMA), after such consultations as are set out in the Management Plan, that fishing is not to be engaged in in the Fishery, or a particular part of the Fishery, during a particular period or periods. Holders of fishing concessions in the Fishery are obliged through the operation of sections 22 and 95 of the Act to comply with such a direction as a condition of the grant of a fishing right.

Subsection 31(1) of the Management Plan provides for AFMA to give a direction as referred to in subsection 17(5A) of the Act. Subsection 31(2) provides that before giving a direction AFMA must consult with, and consider the views of the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC) and the Sub-Antarctic Fisheries Assessment Group (SAFAG). Consultation on the new Direction with SouthMAC and SAFAG has taken place in accordance with subsection 31(2) of the Plan.

A direction given by AFMA under subsection 17(5A) is under subsection 17(6B) a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Direction No. HIMIFD 6 revokes a previous direction, Direction No. HIMIFD 2 made on 30 November 2002, which was in substantially the same form and to the same effect. The new Direction, however, corrects a possible technical deficiency in the earlier direction by restricting its operation to a finite period (5 years from commencement) as required by the Act.

The new Direction in the same manner as the previous Direction has the effect of prohibiting fishing in these waters. Heard Island and McDonald Islands are included on the World Heritage List. In addition, the Islands themselves and the surrounding territorial waters out to a distance of 12 nautical miles form part of the Heard Island Wilderness Reserve. An additional buffer zone of 1 nautical mile has been implemented by AFMA to complement the 12-mile prohibition, so fishing is prohibited within 13 nautical miles of Heard Island. The Wilderness Reserve is managed by the Australian Antarctic Division (AAD) under the *Heard Island Wilderness Reserve Management Plan* established under the *Heard Island and McDonald Islands Environment Protection and Management Ordinance 1987*.

Direction No. HIMIFD 6 commences on Gazettal.